



General Assembly

January Session, 2011

**Raised Bill No. 1148**

LCO No. 4249

\*04249\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT ESTABLISHING A CIVIL ACTION WITH RESPECT TO  
CRIMINAL RECORDS USED IN EMPLOYMENT DECISIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-51i of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) For the purposes of this section, "employer" means any person  
4 engaged in business who has one or more employees, including the  
5 state or any political subdivision of the state.

6 (b) No employer or an employer's agent, representative or designee  
7 may knowingly require an employee or prospective employee to  
8 disclose the existence of any arrest, criminal charge or conviction, the  
9 records of which have been erased pursuant to section 46b-146, 54-76o  
10 or 54-142a.

11 (c) An employment application form that contains any question  
12 concerning the criminal history of the applicant shall contain a notice,  
13 in clear and conspicuous language: (1) That the applicant is not  
14 required to disclose the existence of any arrest, criminal charge or

15 conviction, the records of which have been erased pursuant to section  
16 46b-146, 54-76o or 54-142a, (2) that criminal records subject to erasure  
17 pursuant to section 46b-146, 54-76o or 54-142a are records pertaining to  
18 a finding of delinquency or that a child was a member of a family with  
19 service needs, an adjudication as a youthful offender, a criminal charge  
20 that has been dismissed or nolle, a criminal charge for which the  
21 person has been found not guilty or a conviction for which the person  
22 received an absolute pardon, and (3) that any person whose criminal  
23 records have been erased pursuant to section 46b-146, 54-76o or 54-  
24 142a shall be deemed to have never been arrested within the meaning  
25 of the general statutes with respect to the proceedings so erased and  
26 may so swear under oath.

27 (d) No employer or an employer's agent, representative or designee  
28 shall deny employment to a prospective employee solely on the basis  
29 that the prospective employee had a prior arrest, criminal charge or  
30 conviction, the records of which have been erased pursuant to section  
31 46b-146, 54-76o or 54-142a or that the prospective employee had a prior  
32 conviction for which the prospective employee has received a  
33 provisional pardon pursuant to section 54-130a.

34 (e) No employer or an employer's agent, representative or designee  
35 shall discharge, or cause to be discharged, or in any manner  
36 discriminate against, any employee solely on the basis that the  
37 employee had, prior to being employed by such employer, an arrest,  
38 criminal charge or conviction, the records of which have been erased  
39 pursuant to section 46b-146, 54-76o or 54-142a or that the employee  
40 had, prior to being employed by such employer, a prior conviction for  
41 which the employee has received a provisional pardon pursuant to  
42 section 54-130a.

43 (f) The portion of an employment application form which contains  
44 information concerning the criminal history record of an applicant or  
45 employee shall only be available to the members of the personnel  
46 department of the company, firm or corporation or, if the company,

47 firm or corporation does not have a personnel department, the person  
48 in charge of employment, and to any employee or member of the  
49 company, firm or corporation, or an agent of such employee or  
50 member, involved in the interviewing of the applicant.

51 (g) Notwithstanding the provisions of subsection (f) of this section,  
52 the portion of an employment application form which contains  
53 information concerning the criminal history record of an applicant or  
54 employee may be made available as necessary to persons other than  
55 those specified in said subsection (f) by:

56 (1) A broker-dealer or investment adviser registered under chapter  
57 672a in connection with (A) the possible or actual filing of, or the  
58 collection or retention of information contained in, a form U-4 Uniform  
59 Application for Securities Industry Registration or Transfer, (B) the  
60 compliance responsibilities of such broker-dealer or investment  
61 adviser under state or federal law, or (C) the applicable rules of self-  
62 regulatory organizations promulgated in accordance with federal law;

63 (2) An insured depository institution in connection with (A) the  
64 management of risks related to safety and soundness, security or  
65 privacy of such institution, (B) any waiver that may possibly or  
66 actually be sought by such institution pursuant to section 19 of the  
67 Federal Deposit Insurance Act, 12 USC 1829(a), (C) the possible or  
68 actual obtaining by such institution of any security or fidelity bond, or  
69 (D) the compliance responsibilities of such institution under state or  
70 federal law; and

71 (3) An insurance producer licensed under chapter 701a in  
72 connection with (A) the management of risks related to security or  
73 privacy of such insurance producer, or (B) the compliance  
74 responsibilities of such insurance producer under state or federal law.

75 (h) (1) For the purposes of this subsection: (A) "Consumer reporting  
76 agency" means any person who regularly engages, in whole or in part,  
77 in the practice of assembling or preparing consumer reports for a fee,

78 which reports compile and report items of information on consumers  
79 that are matters of public record and are likely to have an adverse  
80 effect on a consumer's ability to obtain employment, but does not  
81 include any public agency; (B) "consumer report" means any written,  
82 oral or other communication of information bearing on an individual's  
83 credit worthiness, credit standing, credit capacity, character, general  
84 reputation, personal characteristics or mode of living; and (C)  
85 "criminal matters of public record" means information obtained from  
86 the Judicial Department relating to arrests, indictments, convictions,  
87 outstanding judgments, and any other conviction information, as  
88 defined in section 54-142g.

89 (2) Each consumer reporting agency that issues a consumer report  
90 that is used or is expected to be used for employment purposes and  
91 that includes in such report criminal matters of public record  
92 concerning the consumer shall:

93 (A) At the time the consumer reporting agency issues such  
94 consumer report to a person other than the consumer who is the  
95 subject of the report, provide the consumer who is the subject of the  
96 consumer report (i) notice that the consumer reporting agency is  
97 reporting criminal matters of public record, and (ii) the name and  
98 address of the person to whom such consumer report is being issued;

99 (B) Maintain procedures designed to ensure that any criminal  
100 matter of public record reported is complete and up-to-date as of the  
101 date the consumer report is issued, which procedures shall, at a  
102 minimum, conform to the requirements set forth in section 54-142e.

103 (3) This subsection shall not apply in the case of an agency or  
104 department of the United States government seeking to obtain and use  
105 a consumer report for employment purposes if the head of the agency  
106 or department makes a written finding pursuant to 15 USC  
107 1681b(b)(4)(A).

108 (i) Any employer, employer's agent, representative or designee who

109 knowingly engages in conduct prohibited by any provision of  
110 subsections (b) to (f), inclusive, of this section, or who aids in the  
111 violation of any provision of subsections (b) to (f), inclusive, of this  
112 section, shall be liable in a civil action to the person aggrieved by such  
113 violation for damages, together with costs and a reasonable attorney's  
114 fee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	31-51i

**Statement of Purpose:**

To permit a civil action against a consumer reporting agency or an employer, employer's agent, representative or designee for a violation of statutory requirements concerning the request for, use of and reporting of criminal records with respect to employment decisions.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*